

REMARKS

Claims 10, 12-14, 16-19, 21-23 and 25-57 are pending in the present application and are rejected. Claims 36 is herein amended. Applicants thank the Examiner for the courtesies extended in the telephone interview of March 10, 2009. Applicants' Statement of the Substance of the Interview is incorporated herein.

Preliminary Comments

The Office Action indicates that Claim 19 is listed as "Currently Amended" but contains no changes. However, this is incorrect. Line 7 of claim 19 contained the addition of a semicolon. Additionally, Applicants noted an error in claim 36. Applicants herein amend claim 36 in order to correct this error.

Applicants' Response to Claim Rejections under 35 U.S.C. §101

Claims 10, 12-14, 16-19, 21-23 and 25-57 were rejected under 35 U.S.C. §101 as not failing within one the four statutory categories of invention.

The Office Action indicates that the claims "neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps." Therefore, the Office Action concludes that these claims do not qualify as a statutory process. Applicants note that this rejection is based on a USPTO memo issued in view of the recent *In re Bilski* decision by the CAFC.

In response, Applicants respectfully submit that the claims require a transformation of the underlying subject matter, and thus qualify as a statutory process. In particular, each of the independent claims recites the steps of “(C) forming a...slide comprising slide components.” Applicants respectfully submit that this formation of a slide from the original programs is a transformation of the underlying data. Additionally, as recited in the dependent claims, segments from the original programs are either copied into individual files, or are copied into a composite file. This partial copying of the audio/video, video or audio data changes the data into new data. Furthermore, these claims do not recite mere mental steps.

Additionally, Applicants respectfully submit that the claims do not recite a law of nature, natural phenomenon or abstract idea. Furthermore, the claims do not preempt any fundamental principle. In other words, the claims do not include the subject matter of a musician performing a series of segments of multiple songs. Such a musician’s performance would not involve “forming an audio slide” or “providing a textual description as an external file.” Thus, since the pending claims require hardware such as a computer, it is impossible for these claims to preempt any fundamental principle. Therefore, for at least the above reasons, Applicants respectfully submit that the claims recite a method which qualifies as statutory subject matter under 35 U.S.C. §101. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claims 10, 12-14, 16-19, 21-23 and 25-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over Terasawa et al. (U.S. Patent No. 6,147,714) in view of Gagnon et al. (U.S. Patent No. 6,522,342).

As to claims 10, 12-14, 16-19, 21-23 and 25-35, the Office Action maintains substantially the same position. The response to Applicants' previously filed remarks merely repeats the remarks from the previous Office Action. As to the rejection of these claims, Applicants respectfully reiterate that the combination of cited art does not disclose or suggest the embodiment as claimed. In response, Applicants incorporate by reference the previously filed remarks. However, Applicants provide additional comments below in order to further clarify Applicant's position.

Summary of Applicants' understanding of the proposed modification of Terasawa

The proposed modification of Terasawa differs from the actual disclosure of Terasawa merely in that it allows for the retention of the "slide" of still frames after changing a channel. Such a modification would be a system in which a user watching program A presses a button which brings up a guide of, for example, five still frames selected from broadcast programs B, C, D, E and F. The user could move the cursor to highlight, for example, program C, and could optionally bring up a description of the program (*i.e.*, plot summary, actors, etc.). The user could then select program C by pressing a button, causing the tuner to change the channel to that which broadcasts program C. In this proposed modification, the guide would remain on screen. After

tuning to program C, this guide would now consist of still-frames from broadcast programs B, D, E and F. It is unclear what would occupy the space formerly occupied by a still frame of program C. The user could then select another program to switch to, or could command the guide to disappear. If the user selects, for example, program B, the tuner would then change to the channel that broadcasts channel B. On page 6 of the Office Action, the Examiner appears to disagree with this description of the proposed modification of Terasawa, but refuses to provide clarification or point out any errors. Rather, it is stated that “the examiner answered all of these arguments previously and invites the applicant to look at previous response [*sic*] to arguments.” However, previous responses to Applicants’ remarks provide no clarification on this matter. If this is not how the proposed modification of Terasawa contemplated by the Examiner is asserted to work, Applicants respectfully request a clear and explicit discussion about how the proposed modification is asserted to work, preferably using an example similar to that discussed above.

Summary of argument Re: independent claims 10 and 19

Applicants specifically reiterate the point that the proposed combination does not disclose a bi-directional transition between a program and slide components. Such a bi-directional transition would include both slide-to-program and a program-to-slide transition. In the proposed modification of Terasawa, it is clearly possible to “click on” a still frame in order to transition to a program. This is transition in the slide-to-program direction. However, in the proposed modification of Terasawa, it is not possible to “click on” the program in the main screen to bring up a still frame thereof, or anything else for that matter. If it were possible, this would be a

program-to-slide direction. However, such a transition is not possible in the proposed modification of Terasawa.

Applicants respectfully submit that the above-detailed proposed modification of Terasawa does not disclose or suggest a bi-directional transition. Rather, this proposed modification includes a first slide-to-program transition (*i.e.*, still frame C to program C) and a second slide-to-program transition (*i.e.*, still frame B to program B). This proposed modification of Terasawa does not include a bidirectional transition (*i.e.*, still frame C to program C and program C to still frame C). Therefore, Applicants respectfully submit that the combination of cited art does not disclose or suggest the subject matter of claims 10, 12-14, 16-19, 21-23 and 25-35. Favorable reconsideration is respectfully requested.

Audio program claims

As to claims 36-57, the Office Action states that an original audio program can be interpreted as a music program, and that a still frame of such a music program would meet the requirements of the claims. Applicants were puzzled by these comments, and contacted the Examiner in order to obtain greater clarification. After a few minutes of discussion, it was explained that the claimed "audio program" is being interpreted as including a program about the subject of music. In other words, the claimed subject matter is being interpreted such that video of a concert would be considered a "music program," which is regarded as being analogous to the recited "audio program." Further, a video still frame of such a concert is being regarded as a

reduced temporal segment of a “music program.” Thus, it is concluded that a video still frame of concert video is a reduced temporal segment of an audio program.

It was further explained that a slide formed of three still frames from three different concerts or music videos is regarded as being equivalent to the recited “audio slide comprising said slide components.” However, in contrast, a slide formed of three still frames from three different sports events is not regarded as being equivalent to the recited “audio slide comprising said slide components.” In other words, the reasoning in the pending rejection is “content-dependent.”

In response, Applicants respectfully submit that this rejection is improper. In particular, Applicants respectfully submit that the Office Action’s interpretation of a “reduced temporal segment” of an “audio program” as including a still frame of a program about the subject of music is an unreasonable interpretation of the claim language. Similarly, Applicants respectfully submit that the Office Action’s interpretation of an “audio slide” as including a series of still frames each from a program about the subject of music, is an unreasonable interpretation of the claim language. The Federal Circuit’s *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized the proper standard of claim interpretation:

The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

Additionally, the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). See MPEP §2111.

The Office Action alleges that “audio” can be broadly interpreted as “music.” Applicants herewith provide the following definitions of the word “audio”:

- Audio:**
1. Of or pertaining to sound in the range of frequencies considered audible at reasonable listening intensities to the average young adult listener, approximately 15 to 20,000 hertz.
 2. Pertaining to equipment for the recording, transmission, reproduction or amplification of such sound.

McGraw-Hill Dictionary of Scientific and Technical Terms, Sixth Edition (2003)

- Audio: Adjective:**
1. Of or relating to humanly audible sound
 - 2a. Of or relating to the broadcasting or reception of sound.
 - 2b. Of or relating to high-fidelity sound reproduction.
- Noun:**
1. The part of television or motion-picture equipment that has to do with sound.
 2. The broadcast, reception or reproduction of sound.
 3. Audible sound.
 4. A sound signal.

The American Heritage Dictionary of the English Language, Third Edition (1996)

All of the above definitions include the word “sound.” Thus, it is clear that an “audio program” as recited must include sound, that a reduced temporal segment of an “audio program” must include sound, and that an “audio slide” must include sound. Additionally, it is noted that the specification refers to audio and video data as it relates to MPEG-7. In particular, the background of the specification explains that the conventional slides do not allow for browsing

of “the audio portion of audiovisual data, or the music data as data of audio only.” See page 4, lines 13-14.

Under the Office Action’s interpretation of the claims, “audio programs” can include, for example, footage from concerts. Further, under the Office Action’s interpretation, slide component can be a silent, still-frame image derived from this concert footage. Finally, under the Office Action’s interpretation, a slide can be a combination of these silent still frames.

However, such a slide of still-frames from concert footage cannot be “an audio slide comprising said slide components.” Such a slide would be silent—no sound would be produced upon the processing of the data of this slide. In view of the definitions above, the discussion about MPEG-7 in the specification, and the fact the claims recite a method of describing audio data, the Office Action’s interpretation of claims 36-57 is absolutely inconsistent with the interpretation that would be reached by one having ordinary skill in the art. One having ordinary skill in the art of software engineering of multimedia content browsing systems would not interpret the word “audio” as a description of content (*i.e.*, related to music vs. related to sports, politics, etc). Rather, one having ordinary skill in the art of software engineering of multimedia content browsing systems would interpret the word “audio” as a description of type (*i.e.*, data encoding sound vs. data encoding images, text, etc.).

Since the term “audio” must be interpreted as relating to sound, the “audio slide” must be comprised of data which encodes sound. This “audio slide” need not encode music necessarily—for example, the “audio” could also be spoken word, such as an audiobook or a famous broadcast. Terasawa discloses in Figure 1 a main program (which would presumably include

audio) and a “slide” made up of five still frames from other programs. However, these still frames lack audio.

It would not have been obvious to modify the combination of Terasawa and Gagnon to include still frames with audio. Terasawa discloses a situation where the main program and a still frame from another program are simultaneously displayed, somewhat like a “Picture-in-Picture” format. However, it would not have been obvious to add audio to the still frames, because the simultaneous play of multiple audio streams is confusing and uncomfortable for a user. Therefore, for at least the above reasons, Applicants respectfully submit that the combination of cited art does not disclose or suggest the subject matter of claims 36-57. Favorable reconsideration is respectfully requested.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

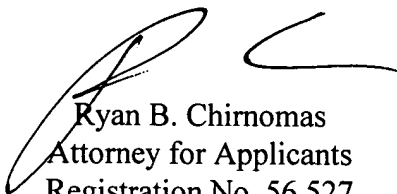
Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants’ undersigned attorney.

Application No.: 09/863,352
Art Unit: 2424

Amendment
Attorney Docket No.: 010661

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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Enclosures: Dictionary definitions of "audio"

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On the cover: Representation of a fullerene molecule with a noble gas atom trapped inside. At the Permian-Triassic sedimentary boundary the noble gases helium and argon have been found trapped inside fullerenes. They exhibit isotope ratios quite similar to those found in meteorites, suggesting that a fireball meteorite or asteroid exploded when it hit the Earth, causing major changes in the environment. (Image copyright © Dr. Luann Becker. Reproduced with permission.)

Over the six editions of the Dictionary, material has been drawn from the following references: G. M. Garrity et al., *Taxonomic Outline of the Prokaryotes*, Release 2, Springer-Verlag, January 2002; D. W. Linzey, *Vertebrate Biology*, McGraw-Hill, 2001; J. A. Pechenik, *Biology of the Invertebrates*, 4th ed., McGraw-Hill, 2000; U.S. Air Force Glossary of Standardized Terms, AF Manual 11-1, vol. 1, 1972; F. Casey, ed., *Compilation of Terms in Information Sciences Technology*, Federal Council for Science and Technology, 1970; *Communications-Electronics Terminology*, AF Manual 11-1, vol. 3, 1970; P. W. Thrush, comp. and ed., *A Dictionary of Mining, Mineral, and Related Terms*, Bureau of Mines, 1968; *A DOD Glossary of Mapping, Charting and Geodetic Terms*, Department of Defense, 1967; J. M. Gilliland, *Solar-Terrestrial Physics: A Glossary of Terms and Abbreviations*, Royal Aircraft Establishment Technical Report 67158, 1967; W. H. Allen, ed., *Dictionary of Technical Terms for Aerospace Use*, National Aeronautics and Space Administration, 1965; *Glossary of Stinfo Terminology*, Office of Aerospace Research, U.S. Air Force, 1963; *Naval Dictionary of Electronic, Technical, and Imperative Terms*, Bureau of Naval Personnel, 1962; R. E. Huschke, *Glossary of Meteorology*, American Meteorological Society, 1959; *ADP Glossary*, Department of the Navy, NAVSO P-3097; *Glossary of Air Traffic Control Terms*, Federal Aviation Agency; *A Glossary of Range Terminology*, White Sands Missile Range, New Mexico, National Bureau of Standards, AD 467-424; *Nuclear Terms: A Glossary*, 2d ed., Atomic Energy Commission.

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Atyidae [INV ZOO] A family of decapod crustaceans belonging to the section Caridea. { 'a-tī-ə-dē }

A-type star [ASTRON] In star classification based on spectral characteristics, the type of star in whose spectrum the hydrogen absorption lines are at a maximum. Also known as A star. { 'a-tīp, stār }

A-type virus particles [VIROL] A morphologically defined group of double-shelled spherical ribonucleic acid virus particles, often found in tumor cells. { 'a-tīp 'vī-rəs, pard-ə-kəlz }

Au See gold.

AU See astronomical unit.

Auberg blood group system [IMMUNOL] An immunologically distinct, genetically determined human erythrocyte antigen, demonstrated by reaction with anti-Au² antibody. { 'ə-bər,zhā 'bləd, grŭp, sis-təm }

Aubert phenomenon [PSYCH] The perception of a vertical line as oblique by an observer whose head is inclined to one side in a darkened room. { 'ə-ber fə'nām-ə-nən }

aubrite [GEOL] An enstatite achondrite (meteorite) consisting almost wholly of crystalline-granular enstatite (and clinenstatite) poor in lime and practically free from ferrous oxide, with accessory oligoclase. Also known as bustite. { 'ə,brit }

Auchenorrhyncha [INV ZOO] A group of homopteran families and one superfamily, in which the beak arises at the anteroventral extremity of the face and is not sheathed by the propleura. { 'ə-k-ə-nə-rīŋ-kə }

audibility [ACOUS] 1. The state or quality of being heard. 2. The intensity of a received audio signal, usually expressed in decibels above or below 1 milliwatt using a stated single frequency sine wave. { 'ə-d-ə-bil-əd-ē, kərv }

audibility curve [ACOUS] 1. The limits of hearing represented graphically as an area by plotting the minimum audible intensity of a sine wave sound versus frequency. 2. See equal loudness contour. { 'ə-d-ə-bil-əd-ē, kərv }

audibility threshold [ACOUS] The sound intensity at a given frequency which is the minimum perceptible by a normal human ear under specified standard conditions. { 'ə-d-ə-bil-əd-ē, thresh, hōld }

audible feedback [COMPUT SCI] A feature of a computer keyboard that generates sound each time a key is depressed sufficiently to generate a character on the screen. { 'ə-d-ə-bəl 'fēd-bək }

audible frequency See audible tone. { 'ə-d-ə-bəl 'frē-kwən-sē }

audible leak detector [ENG] A device used as an auxiliary to the main leak detector for conversion of the output signal into audible sound. { 'ə-d-ə-bəl 'lek di-tek-tər }

audible tone [ACOUS] Sound of a frequency which the average human can hear, ranging from 30 to 16,000 hertz. Also known as audible frequency. { 'ə-d-ə-bəl 'tōn }

audio [ACOUS] 1. Of or pertaining to sound in the range of frequencies considered audible at reasonable listening intensities to the average young adult listener, approximately 15 to 20,000 hertz. 2. Pertaining to equipment for the recording, transmission, reproduction, or amplification of such sound. { 'ə-d-ē-ō }

audio adapter See sound board. { 'ə-d-ē-ō 'ə-dap-tər }

audio amplifier See audio-frequency amplifier. { 'ə-d-ē-ō 'am-plə-fī-ər }

audio frequency [ACOUS] A frequency that can be detected as a sound by the average young adult, approximately 15 to 20,000 hertz. Abbreviated af. Also known as sonic frequency; sound frequency. { 'ə-d-ē-ō 'frē-kwən-sē }

audio-frequency amplifier [ELECTR] An electronic circuit for amplification of signals within, and in some cases above, the audible range of frequencies in equipment used to record and reproduce sound. Also known as audio amplifier. { 'ə-d-ē-ō 'frē-kwən-sē 'am-plə-fī-ər }

audio-frequency choke [ELECTROMAG] Choke used to impede the flow of audio-frequency currents; generally a coil wound on an iron core. { 'ə-d-ē-ō 'frē-kwən-sē, chōk }

audio-frequency meter [ENG] One of a number of types of frequency meters usable in the audio range; for example, a resonant-reed frequency meter. { 'ə-d-ē-ō 'frē-kwən-sē, 'mēd-ər }

audio-frequency oscillator [ELECTR] An oscillator circuit using an electron tube, transistor, or other nonrotating device to produce an audio-frequency alternating current. Also

known as audio oscillator. { 'ə-d-ē-ō 'frē-kwən-sē 'ās-ə-lād-ər }

audio-frequency peak limiter [ELEC] A circuit used in an audio-frequency system to cut off signal peaks that exceed a predetermined value. Also known as audio peak limiter. { 'ə-d-ē-ō 'frē-kwən-sē 'pēk, 'lim-əd-ər }

audio-frequency range [ACOUS] The range of frequencies to which the human ear is sensitive, approximately 15 to 20,000 hertz. Also known as audio range. { 'ə-d-ē-ō 'frē-kwən-sē, 'rāŋj }

audio-frequency shift modulation [COMMUN] System of facsimile transmission over radio, in which the frequency shift required is applied through an 800-hertz shift of an audio signal, rather than shifting the radio transmitter frequency; the radio signal is modulated by the shifting audio signal, usually at 1500 to 2300 hertz. { 'ə-d-ē-ō 'frē-kwən-sē, 'shift māj-ə-lā-shən }

audio-frequency transformer [ELEC] An iron-core transformer that is used for coupling audio-frequency circuits. Also known as audio transformer. { 'ə-d-ē-ō 'frē-kwən-sē 'tranz-fōr-mər }

audiogenic seizure [MED] A transient episode of muscular, sensory, or psychic dysfunction induced by sound. { 'ə-d-ē-ōjēn-ik 'sē-zhər }

audiogram [ACOUS] A graph showing hearing loss, percent hearing loss, or percent hearing as a function of frequency. { 'ə-d-ē-ō, gram }

audio image [ACOUS] A sound that originates, or appears to originate, at a certain point in space. { 'ə-d-ē-ō, 'im-ij }

audiolimpedance measurement [ACOUS] The measurement of acoustic impedance, as in the direct assessment of the dynamic motor control of sound feedback of different parts of the ear. { 'ə-d-ē-ō, 'im-ped-əns 'miez-ər-mēnt }

audiology [ACOUS] The science of hearing. { 'ə-d-ē-ō-l-ə-jē }

audio masking See masking. { 'ə-d-ē-ō, 'mask-ŋ }

audiometer [ENG] An instrument composed of an oscillator, amplifier, and attenuator and used to measure hearing acuity for pure tones, speech, and bone conduction. { 'ə-d-ē-ō 'am-əd-ər }

audiometry [ACOUS] The study of hearing ability by means of audiometers. { 'ə-d-ē-ō 'am-ə-trē }

audio-modulated radiosonde [ENG] A radiosonde with a carrier wave modulated by audio-frequency signals whose frequency is controlled by the sensing elements of the instrument. { 'ə-d-ē-ō māj-ə-lād-əd 'rad-ē-ō, sänd }

audio oscillator See audio-frequency oscillator. { 'ə-d-ē-ō 'ās-ə-lād-ər }

audio patch bay [ENG ACOUS] Specific patch panels provided to terminate all audio circuits and equipment used in a channel and technical control facility; this equipment can also be found in transmitting and receiving stations. { 'ə-d-ē-ō 'pach, bā }

audio peak limiter See audio-frequency peak limiter. { 'ə-d-ē-ō 'pēk, 'lim-əd-ər }

audio range See audio-frequency range. { 'ə-d-ē-ō, 'rāŋj }

audio response [COMMUN] A form of computer output in which prerecorded spoken syllables, words, or messages are selected and put together by a computer as the appropriate verbal response to a keyboarded inquiry on a time-shared on-line information system. { 'ə-d-ē-ō rī'spāŋs }

audio response unit [COMMUN] A magnetic recording system that provides voice response to an inquiry made from a typewriter or telephone-type terminal connected to a computer by a data transmission line. { 'ə-d-ē-ō rī'spāŋs, yu-nēt }

audio signal [ACOUS] An electric signal having the frequency of a mechanical wave that can be detected as a sound by the human ear. { 'ə-d-ē-ō, 'sig-nəl }

audio spectrometer See acoustic spectrometer. { 'ə-d-ē-ō, 'spek-trām-əd-ər }

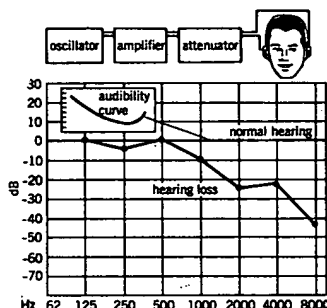
audio system See sound-reproducing system. { 'ə-d-ē-ō, 'sis-təm }

audio taper [ENG ACOUS] A special type of potentiometer used in a volume-control apparatus to compensate for the nonlinearity of human hearing and give the impression of a linear increase in audibility as volume is raised. Also known as linear taper. { 'ə-d-ē-ō, 'tā-pər }

audio transformer See audio-frequency transformer. { 'ə-d-ē-ō 'tranz-fōr-mər }

audiovisual [COMMUN] Pertaining to methods of education

AUDIOGRAM



Audiogram for determining the audibility curve for pure-tone hearing loss at various frequency levels.

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' (secondary), as in
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